MT LEGISLATIVE HISTORY

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Chapter 196 1985

Bill H _____ S 169 Original bill & hist. ✓C

H. Committee on State Administration		S. Committee on State Administration	
Hearing Date(s) Mar 13	✓C	Hearing Date(s) Feb 04	✓C
_____	___C	Feb 09	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mar 13	✓C	Feb 09	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 196

INTRODUCED BY J. Brown

A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE POPULATION LIMITATION IN THE STATUTE ALLOWING POLITICAL SUBDIVISIONS TO DISPENSE WITH NONPARTISAN PRIMARY ELECTIONS IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 13-14-115, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-14-115, MCA, is amended to read:

"13-14-115. Preparation and distribution of nonpartisan primary ballots. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". They shall be arranged as other primary ballots and be without political designation.

(2) The number of nonpartisan primary ballots and sample ballots furnished shall be the same as other primary ballots.

(3) ~~In a political subdivision with a population of 10,000 or less, the~~ The governing body of a political subdivision may determine that a primary need not be held if:

(a) the number of candidates for an office exceeds twice the number to be elected to that office in no more than one-half of the offices on the ballot;

(b) the number of candidates in excess of twice the number to be elected is not more than one for any office on the ballot; and

(c) the governing body passes a resolution not more than 7 days after the close of filing by candidates for election stating that a primary election need not be held."

-End-

LC 0647/01

INTRODUCED BILL
HB 196

Mr. Ashley replied that at the present the Board of Investments keep detailed records. That information is rolled up and put on the budget and accounting system. In other words, they show that you have $1,000 worth of stock, but not what kind of stock it is. Senator Mohar asked what Section 2-15-121 (2) (d) does. Mr. Ashley said that it simply states that the Department of Administration has the power to hire the staffs, except for our Investment Officer and his assistant. This would take that power away.

SENATE BILL 164 is closed.

EXECUTIVE ACTION ON SENATE BILL 164: Senator Conover made a motion that SENATE BILL 164 do pass. Senator Manning called question, and the Committee voted unanimously that SENATE BILL 164 DO PASS.

CONSIDERATION OF SENATE BILL 162: Senator Daniels, Senate District 24, is the sponsor of this bill entitled, "AN ACT TO EXTEND THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Senator Daniels said this is a bill which purports to cure all defects and errors of bonds issued by municipalities and divisions of the State of Montana. With this bill, the bonding companies feel better and the state feels better. This bill takes care of any omissions or irregularities.

PROPONENTS: David Ashley said that the Department of Administration supports this bill.

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: Senator Harding asked if he was sure it was a cure-all. Senator Daniels replied that the proponents ask him to do this every two years, it seems to make everyone feel better.

SENATE BILL 162 is closed.

EXECUTIVE ACTION ON SENATE BILL 162: Senator Lynch made a motion that SENATE BILL 162 do pass. Question was called, and the Committee voted unanimously that SENATE BILL 162 DO PASS.

CONSIDERATION OF SENATE BILL 169: Senator Ethel Harding, Senate District 25 Lake County, is the sponsor of this bill entitled, "AN ACT TO ALLOW ELECTION ADMINISTRATORS THE OPTION OF CONDUCTING CERTAIN SPECIFIC ELECTIONS BY MAIL BALLOT; AMENDING SECTIONS ... AND ..., MCA; AND PROVIDING AN EFFECTIVE DATE." Senator Harding said that this is a good bill. She said there was a lot of new sections, so the Committee had a lot to consider. Senator

Harding said that this bill had a Statement of Intent because section 6 grants the secretary of state authority to adopt rules for the conduct of mail ballot elections. It is intended that the authority to adopt rules extends only to the areas specifically provided for in section 6. Rules are to be adopted under the Montana Administrative Procedure Act. The rules must be consistent with the provisions of the act. Senator Harding further stated that it is intended that use of the mail ballot option will be entirely optional and within the discretion of the applicable jurisdiction and election administrator. Senator Harding said that many elections are held in very small areas where there is maybe only one person running or it is only a one issue election. Turn-out is predictably poor, and in these areas the mail ballot is the answer for getting more people to turn-out and for keeping the costs of these elections within reason. She said that this bill would not allow mail ballot elections for the big elections, any election conducted by a school district, or a recall election of a public office holder, except in third class cities, and she continued to list other things that were not allowed. She said ballots would be mailed out with secrecy envelopes and you would have to sign the outside of the envelope to validate your ballot, and this way they could prevent fraud. Senator Harding further said that unlike most elections where it is one-man, one-vote, in irrigation district elections, it is according to how many acres you own. Senator Harding reiterated that this was a good bill to take care of these special elections that do not have a good voter turn-out.

PROPONENTS: Jean Johnson of Jim Waltermire, Secretary of State's Office, says that they support this bill. She gave the statistics on the other states that have mail ballot elections and how well they are working. She showed the Committee one of the mail ballots and how it works. Ms. Johnson further stated that this method saves on the cost of elections for those small elections and improves voter turn-out.

Alan Robertson, Legal Counsel for the Secretary of State's Office, took the Committee through a section by section explanation of what the bill says. His testimony is marked Exhibit "D", attached hereto and by this reference made a part hereof. He told the committee that he has had some people try to cancel an election because no-one was interested, but he said cancelling an election is foreign to the system. It is a hard thing to do. He thinks this bill will solve that problem.

Betty Lund, Election Administrator for Ravalli County, supports this bill. She feels the purpose of this bill is to solve problems in some areas of the election process. She feels that the mail ballot is the answer to a lot of these problems.

She gave statistics from Oregon showing that these ballots were readily accepted and cost less than regular elections. Ms. Lund said the cost per election was decreased by two-thirds. She said the increased voter participation was three times greater, and the voter acceptance was shown by participation. (For more of Ms. Lund's testimony see Exhibit "G" attached hereto, and by this reference made a part hereof.)

Alec Hansen, Montana League of Cities and Towns, supports this bill. He feels that this would solve two of the major problems of elections, cost and voter turn-out.

Ken Kelly, Montana Water Development Association, Montana Irrigators, Inc, supports this bill. This is a large step in the desirable amendment of election laws. It should promote more participation in the elections of Irrigation Districts and other political subdivisions. He further said that they have a problem getting people to show up for the annual meeting let alone to vote. He said that they welcome this opportunity and ask that this bill pass. (See Exhibit "C" attached hereto.)

Harriet Meloy, League of Women Voters, would support this bill with significant amendments that would limit its scope and clarify its implementation. She then read a section by section change that would be acceptable to the League of Women voters. She said these changes were drawn up by Margaret Davis and written by Diane Young. (Attached hereto marked Exhibit "E" and by this reference made a part hereof.)

Following Harriet Meloy's testimony, Jean Johnson of the Secretary of State's Office entered a rebuttal sheet to the League of Women Voter's changes, attached hereto marked Exhibit "F" and by this reference made a part hereof.

Ray Wadsworth, Montana Rural Water Systems, supports this bill for all the reasons stated above. He said it was very expensive to hold these elections when there were no other elections being held, and the turn-out was very poor. Mr. Wadsworth said that in 1983 they began drafting legislation to solve these problems. He said there was a hearing on House Bill 232 and they postponed it until they see what happens to Senate Bill 169. He said that they did not find out about this bill until just recently, but most of their participants have called in to say that they unanimously support this bill.

JoAnne Perez, Montana Association of Clerk & Recorders, supports this bill, for all the reasons listed above. She said it was very expensive to have her judges go down and sit for 8 hours or so and be bored because no-one comes. She thinks this bill will solve this problem.

Gordon Morris, Montana Association of Counties, supports this bill. Mr. Morris said that they have a bill pending before the house waiting to see what the outcome on this bill will be, which would allow water districts to proceed like corporations. He said that these elections are not tied to the one-man, one vote principle. He said these elections are tied into the acreage that they have, yet these elections cost just as much as a regular election.

Jean Johnson entered testimony submitted by Laura Mitchell, Secretary for different Drainage Districts. In her testimony, Ms. Mitchell said that her drain districts are the type of public entity which can be best served by a mail ballot election. (For more of her testimony, see Exhibit "H", attached hereto and by this reference made a part hereof.)

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: Senator Haffey announced that we will hold action on this until Friday so the members of the Committee can look it over. Senator Haffey asked Senator Harding to work with Harriet Meloy of the League of Women Voters to see if they can iron out any problems they have. Senator Lynch said that he had a problem with why there wasn't a 22¢ stamp on these ballots. He asked if it wouldn't work to put a first class frank on all these envelopes, and then you would get more participation. Mr. Robertson, Attorney for Secretary of State's Office, said that they felt that you normally had to get in your car and get to the voting place in order to vote, and they thought people would not mind putting forth a little effort this way to vote. Senator Tveit asked Ms. Lund if on page 7, lines 5 and 7, what Harriet Meloy had said was true that people conducting election should have some say. Ms. Lund replied that under Title 13, we have the right to conduct them and have them with the school elections. In our county we try to do this because I am very careful about my elections. Senator Tveit asked if the school judges couldn't handle this since they were already there. Ms. Lund replied that they had to hire separate judges. The school election judges were not allowed to handle their ballots. Senator Mohar mentioned that on the sample ballot passed around there was quite a fine and imprisonment for fraud. Does Montana have this on its laws? Mr. Robertson replied no.

SENATE BILL 169 is closed.

The meeting was adjourned at 11:25 a.m.

Jack Haffey.

SENATOR JACK HAFFEY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 2-5

NAME	PRESENT	ABSENT	EXCUS
SENATOR JACK HAFFEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	✓		
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓	—	
SENATOR DICK MANNING	✓	—	
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	✓		

DATE Feb 4 1985

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dave Ashley	Dept of Administration	162 & 164	✓	
K.M. Kelly	Mont. Water Develop. Assn Mont. Irrigators, Inc.	169	✓	
Lorraine M. Peres	Mt. Assn. Clerk & Recorders	169	✓	
Betty T. Lund	Elect. Adm. Records Co	169	✓	
D. Morris	MACo.	169	✓	
J.B Penner	Board of Investments	164	✓	
R.A Kain	" " "	164	✓	
Glen Robertson	Sec of States Off	169	✓	
Harriet Meloy	League of Women Voters	169		
Sue Bartlett	Lewis & Clark Co. Clerk & Recorder	169	✓	
Alec Hansen	League of Cities	169	✓	
Jean A. Johnson	Sec. of State	169	✓	

(Please leave prepared statement with Secretary)

Exhibit "A"
SB-169
2-4-85

(This sheet to be used by those testifying on a bill.)

NAME: Ray Wadsworth DATE: 2/4/85

ADDRESS: 1010 - 22 Ave So Gt Falls

PHONE: 454-1151

REPRESENTING WHOM? Mt Rural Water Systems

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SB 169 SENATE STATE ADMINISTRATION COMMITTEE HEARING 2/4/85

Chairman Haffey, members of the committee, for the record my name is Jean Johnson. I work for Secretary of State Jim Waltermire in the elections area.

At issue this morning is whether or not election administrators and certain political jurisdictions have the option to conduct their elections by mail ballot.

I want to give you a brief history of the mail ballot election and what it does.

Monterey, CA actually pioneered this method when it became necessary to conduct an election for the creation of the Monterey Peninsual Water Management District. It was obvious that such an election standing alone would be very costly and the need to cut those costs led to the creation of the mail ballot method.

In 1981 Oregon became the second state to pass legislation authorizing the mail ballot option. Washington and Kansas followed in 1983. (In 1982 Rochester, New York conducted a single-issue election by mail ballot through a "loophole" in state election laws which excluded the coverage of "special elections limited to local referendum issues.")

Actually, Washington has used mail ballots for all voters in every election in precincts of one hundred or less registered electors for around 40 years. Officials there report substantial cost savings and a 70% to 80% turnout in those precincts. Overall, hundreds of thousands of ballots have been cast by mail ballot procedure in the seven years since the Monterey Peninsula Water Management District election. Very few problems have been reported.

Secretary Waltermire began looking at the mail ballot election procedure over two years ago in response to a number of problems special districts often have conducting elections. There are others here who will address those issues. I'd like to show you how the election actually looked to the voters in Vancouver, WA last May.

(This sheet to be used by those testifying on a bill.) SB-169 2-4-85

NAME: K.M. Kelly DATE: 2/4/85

ADDRESS: Helena 4605 Glass Drive

PHONE: 458-5361

REPRESENTING WHOM? Montana Water Development ASSN. Montana IRRIGATORS, INC

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENT:

This is large step in the desirable amendment of Election Laws. It should promote more participation in the elections of Irrigation Districts and other political sub-Divisions.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "L"
SB-169
2-4-85

SENATE BILL NO. 169

Section by Section Review

Sec. 1 Statement of Purpose: Outlines policies behind act. Clearly states that intent is to provide option.

Sec. 2 Definitions: Self explanatory.

Sec. 3 MBE Procedure: Outlines major steps of MBE. Defines MBE in terms of procedures used.

Sec. 4 MBE not mandatory - authorized -- prohibited:

(1) Act is an option -- not mandatory

(2) Specific cases when may be used.

(a) Districts with annual elections.

- drainage districts;
- irrigation districts;
- fire districts;
- county water and sewer districts.

(b) In 3rd Class cities (1,000 to 5,000) ballot issues and non-partisan candidate elections.

(c) Towns (under 1,000) any election conducted by the town.

(d) County water and sewer districts in unincorporated areas.

(e) "special" elections on ballot issues only in any local government unit (city, county or special district).

(3) Prohibited elections:

(a) any regularly scheduled primary or general held in an even-numbered year.

(b) any regularly scheduled primary or general held in an odd-numbered year except (1) non-partisan elections in 3rd Class cities or (2) elections in towns.

(c) any school district election of any kind or purpose.

(d) any recall election

(e) any election involving candidates except

- candidates for trustee of a special district (fire, irrigation, drainage, or water and sewer);
- non-partisan candidates in 3rd Class cities;
- all candidates in towns.

(f) special elections being held in conjunction with any regularly scheduled primary or general.

Sec. 5 General election laws apply: Balance of Title 13 covers things not specifically dealt with in this act.

Sec. 6 Role of Secretary of State: Specifies role of his office.

Sec. 7 How MBE Initiated: Either the Election Administrator or the governing body.

Sec. 8 Initiation by Gov Body: Pass resolution asking election administrators to conduct election by mail ballot. Election administrators can say no.

Sec. 9 Initiation by Election Administrator: If election administrator wants to do a MBE she writes a plan and sends it to the Gov. Body.

Sec. 10 Objection by political subdivisions: Governing Body can say no by passing resolution.

POINT: Process can be started by either the election administrator or the Gov. Body, and either can say no. Consent of both is required.

Sec. 11 Written Plan to Secretary of State: This is needed, at least initially, to insure that uniformity is maintained and procedures are correctly followed. The "written plan" idea has been used successfully in other states as a means of implementing this new idea.

Sec. 12 Proportional Voting: Some jurisdictions allow weighted voting (e.g. irrigation districts -- 85-7-1710 -- allow one vote for every reg. elector owning less than 40 acres and, for those owning more than 40 acres, one vote for every 40 acres owned). This section allows weighting mail ballots in those instances.

Sec. 13 Distributing materials to electors: Covers what is sent out and how.

Sec. 14 When material mailed: All mailed same day -- between the 15th and 25th days before.

Sec. 15 Voting when elector is absent: Since virtually everyone will be voting as they would if they had requested an absentee ballot, we don't need to provide for much in the way of actual absentee balloting. Only those who will be away for the whole time the election is being conducted (15 to 25 days) need to be provided for. And under this section, they simply provide the address where they would like their ballot mailed.

Sec. 16 Voting mail ballots: Specifies how a vote is actually cast in a MBE.

Sec. 17 Replacement ballots --procedure: If a ballot is lost, doesn't get delivered or gets ruined, this provides the mechanism for still getting to vote.

POINT: Many may not realize, but even in conventional elections, if you ruin your ballot you can get a replacement.

Sec. 18 Returning marked ballots: May return it on or before election day, either in person or by mail.

POINT: This bill retains the practice of going to the polls on election day and casting your ballot. If a person wants to still do it that way, its possible.

Sec. 19 Places of Deposit: These are to be like polling places and, on election day itself, they will be open the same hours. If a person likes going to the polls, or doesn't want to pay the postage, or doesn't want to take a chance on his ballot getting lost, or even if its simply more convenient to hand deliver -- that is provided for. And, he can do it either on or before election day.

Sec. 20 Disposition of Ballots returned in person: This covers how hand delivered ballots are handled.

NOTE: This section does not say that a woman, for example, cannot hand deliver her own ballot, her husband's, and her child's. It simply says that if a voter delivers their own ballot, in person, then officials must do certain things (like verify the signature) while that person is there in the office.

This prevents an elector having to make a second trip in because something came up that could have been handled while she was there the first time. This is also the only reason for the log which electors sign --

just so questions about the signature can be resolved while the person is actually there and so they won't have to make another trip. The husband's ballot would simply be handled as if it were received in the mail.

Sec. 21 Disposition of ballots returned by mail: This covers how to handle ballots that are returned by mail.

Sec. 22 Signature Verification: This is the main way to guard against fraud. It's the same procedure that has been used for absentee ballots for years -- except that it has more protection for the voter (e.g. if there's a problem you can call the voter and have them come in). Right now, under the absentee ballot provision if there's a problem with the signature, etc. the voters ballot is just rejected.

These additional protections for the voter are necessary because everyone's signature will need to be verified not just the relatively few who now vote by absentee. The protections shouldn't be overly burdensome on officials since processing the ballots will be spread out over two weeks not concentrated on one day.

Sec. 23 Voting by nonregistered electors: Some jurisdictions (e.g. irrigation districts) allow people to vote even if they aren't registered. This section provides for that for MBE.

Participation in an election is a right. But registration has long been held to be a reasonable requirement and not an infringement on that right. Likewise, it is reasonable to require a little extra from a non-registered elector who wishes to participate in an MBE. Officials have to have some means for knowing where to mail the ballot and for verifying the signature to prevent fraud. If the jurisdiction feels this section is overly burdensome, then they do not have to choose the mail ballot option.

Any such person would have up to five weeks to comply with this section. Surely that would not be too great an inconvenience.

Sec. 24 Valid Ballots: This section makes it very clear what must be done in order to have your ballot count.

Sec. 25 Notices to electors -opportunity to resolve: Every year in almost every county there are absentee ballots which aren't counted because the voter forgot to sign the affidavit or his signature couldn't be verified.

This section provides optimum opportunity to the elector to have his ballot count.

Minor or procedural mistakes would be things like: not signing the affadavit; not enclosing the ballot secrecy envelope in the return/verification envelope (hand delivered); two ballot secrecy envelopes in one return envelope; signing a married name when the registration card has the maiden name; or writing your name on the secrecy envelope.

Sec. 26 Resolving issues in question: This covers how to resolve any question that comes up as to the validity of a ballot. Provides further safeguards against fraud.

Sec. 27 Procedure at close of voting: This covers how to proceed when voting is over.

Sec. 28 Amending 7-13-2236: This was necessary to allow water and sewer district elections in unincorporated areas to be done by mail ballot.

Sec. 29 Amending 13-1-401: This further allows special districts to use the MBE option.

NOTE: Districts may still hold their elections at other times (with schools or at their annual meeting) if they wish.

Sec. 30 Effective Date: This is so the procedure can be in place before fall in case some areas want to use it -- like perhaps the county water and sewer district in the Lincoln area of Lewis and Clark County.

SB 169
2-4-85

League of Women Voters of Montana
616 Flowerree
Helena, Montana 59601

4 February 85

SB 169 - An act to allow election administrators the option of conducting certain specific elections by mail ballot

The League of Women Voters would support this bill with significant amendments that would limit its scope and clarify its implementation.

Voting by mail has several potential useful applications in Montana. Jurisdictions in California, Oregon, and New York, among others, have conducted successful mail elections.

In Montana area residents or landowners have sought the advantages of being a government entity rather than becoming a private association, cooperative, or dependent on individual initiative and/or investment. The advantages of being a political sub-division include some special legal considerations, benefits for volunteers, access to low interest loans or public funds, and most importantly the power to tax friends and neighbors in that district.

Service districts in Montana range widely in size of area and budget. They are not necessarily rural in their constituencies. Devising laws applicable to all such districts is not easy, but the fundamental need to adhere to democratic principles should not be ignored in the name of efficiency. "Taxation without representation" can still stir citizen concern today. A fair, accessible election may be the price that must be paid for the perpetuation of these districts. (That qualified or interested candidates are unwilling or unavailable to fill district offices is not a valid argument for denying taxpayers an opportunity to participate in district affairs.)

We believe that mail balloting be instituted on a more modest level than proposed in SB 169. The League recommends that Sec. 4 (b) and (c) on page 4 be struck. Because of the new campaign techniques required for running for a mail election, city and town office candidates should not be among those piloting this system.

Any system of voting by mail must provide the voter with a postage paid return envelope.

The Sections (15, 17, 22, and 25) dealing with absentee balloting, replacement ballots, signature verification, and notice to elector(s) are inconsistant and seem overly complicated. The opportunity to cast an absentee ballot is very restricted, while replacement ballots would be quite easy to obtain until the close of the polls.

Section 19 regarding places of deposit for completed ballots does not meet standard criteria for a secure, centralized depository. Sections 19 and 20 taken together would undercut the strong points of having an election by mail!

Sections 7, 8, and 9 address how an election by mail is initiated. Since the political sub-division pays the cost of the election, the decision should rest with the governing body of the sub-division, if the election administrator agrees that such an election would be feasible. Giving broad discretion solely to the election administrator (page 7, lines 5 - 7) is not recommended by the League.

Finally, we would ask that all the language in Section 1 following "therefor." on line 14, page 1 be stricken. These sentences are the expression of opinions that do not accurately reflect how Montanans view their democratic system of government. This state puts a high premium on direct participation in government through elections. The public would cast a dubious eye on balancing fair and accurate elections against cost-effectiveness. The best and only truly proper reasons for supporting mail elections is that they offer the voter more convenience than presently exists, and that they often result in higher voter participation for certain types of elections.

Mail balloting can be a valuable alternative method of holding certain elections. The League asks the committee to give serious consideration to the suggestions we have made in this testimony.

This testimony was prepared by Margaret Davis. It was made available 24 January 85 to the bill's sponsor Senator Harding and to the Secretary of State's staff member Jean Johnson.

Presented by:
Written by Margaret S. Davis for Diane Young, president LWVM

Margaret S. Davis

Exhibit F
SB-169
2-4-89

RESPONSE TO TESTIMONY
OF THE LEAGUE OF WOMEN VOTERS
ON SENATE BILL 169

ITEM 1: CANDIDATE ELECTIONS

SB 169 PROVIDES: The only candidate elections which are even available for the mail ballot option are:

(a) trustees of special districts but not school districts;

(b) all candidates for municipal office in towns -- incorporated areas under 1,000 in population; and

(c) candidates for municipal office in 3rd Class cities (1,000 to 5,000) <u>if</u> the city elects officers on a non-partisan basis.

All other candidate elections of any type are specifically excluded.

LEAGUE RECOMMENDS: "... that mail balloting be instituted on a more modest level ..." "... that Sec. 4(b) and (c) on page 4 be struck. Because of the new campaign techniques required for running for a mail election, city and town office candidates should not be among those piloting this system."

RESPONSE: This is a policy choice for the legislature to make. Whether candidate elections should be among those allowed to use the mail ballot option -- and if they are, at what level -- is simply a judgment call.

SB 169 is a response to a two year study of recurring problems in the elections area. The cost and frequency of elections are very real problems for small towns. A quick conversation with officials in places like Judith Gap and Moore will verify that fact.

As any rural Montanan knows, politics in communities with only a few hundred people are quite different from politics in the communities where the League has its chapters.

The problems with elections in towns are real and ongoing. The mail ballot option is one possible solution. Disincorporation is another. Forcing them to live with the problem is the third. These are the choices available to the legislature.

The proponents have studied the matter and feel that the mail ballot option is appropriate for candidate elections in towns. We also feel, although less strongly, that the mail ballot option is appropriate for Montana's small cities. But if the legislature wants to exclude 3rd Class cities altogether, or even if it would prefer to expand the proposal to include even partisan elections in 3rd Class cities, the proponents would not object.

ITEM 2: POSTAGE

SB 169 PROVIDES: The cost of postage is divided. The government bears the cost of sending materials to the voter. The individual voter bears the cost of mailing the ballot back.

LEAGUE RECOMMENDS: "Any system of voting by mail must provide the voter with a postage paid return envelope."

RESPONSE: Just why is return postage a "must"? Under the current system, if an elector wishes to vote, he must get himself to the polls on election day at his own expense. The same would be possible under SB 169.

Anyone who wishes can still vote in the traditional way. The only difference is that they will have already received their ballot in the mail. The voter can avoid paying postage by simply hand delivering the ballot. That is no greater burden than driving to the polls on election day.

The opportunity to mail the ballot back is simply provided as a convenience to the voter. And a very inexpensive convenience at that.

The proponents believe that the vast majority of voters would feel that 22 cents is a small price to pay for that convenience. Those who disagree have the alternative of hand delivering their ballot. In giving the voters the vastly expanded convenience of voting by mail, 22 cents is a very small request to make in return.

ITEM 3: INCONSISTENT AND COMPLICATED SECTIONS

LEAGUE STATES: "The sections (15, 17, 22 and 25) dealing with absentee balloting, replacement ballots, signature verification, and notice to elector(s) are inconsistent and seem overly complicated."

RESPONSE: This comment is not sufficiently specific to allow a response. Its author has been out of town and unavailable for clarification. We have reviewed the sections and do not find how they are inconsistent.

ITEM 4: ABSENTEE VOTING

SB 169 PROVIDES: Anyone who will be away for the entire period that the election is being conducted, can, up until noon the day before the ballots are mailed, provide officials with the address he would like his ballot mailed to.

LEAGUE STATES: "The opportunity to cast an absentee ballot is very restricted, while replacement ballots would be quite easy to obtain."

RESPONSE: What absentee situation does the league see which is not covered satisfactorily? The situation in a mail ballot election is quite different.

Traditionally you need to provide for everyone who will be absent on election day. With mail ballots, however, you only need to provide for those who will be absent for the entire two to three week period that the election is being conducted. And they simply need to provide the alternative address where they would like their ballot sent.

Anyone who leaves town after ballots have been received can simply take their ballot with them and mail it from wherever they are. Anyone who returns home after ballots have been mailed will find their ballot waiting for them when they get home. Only those who are away the whole time need be provided for.

A mail ballot election is almost like everyone voting absentee. The proponents do not see how this is "very restricted."

ITEM 5: SECURITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: Places of deposit are designated by the election administrator. These are where people may hand deliver their ballots. They must be available throughout the voting period with more possible on election day itself. A transport box, secured as provided by law, is available at each and is where the on-location officials are to deposit the ballots.

LEAGUE STATES: "Section 19 regarding places of deposit for completed ballots does not meet standard criteria for a secure centralized depository."

RESPONSE: The proponents are unclear what is meant by "secure, centralized depository" and are unaware of any "standard criteria."

Our system is set up with a series of precincts where people go to cast their ballots. Places of deposit are like precinct polling places.

The only differences are: 1) not as many places of deposit are needed because so many of the voters will return their ballots by mail; 2) thus, there probably won't be one in each precinct; 3) people will most likely bring their ballots in already voted although its possible to vote it right there; 4) people will most likely bring in a ballot, althought if its been lost, etc., they can obtain a replacement; 5) for these reasons they're called "places of deposit" instead of "precinct polling places."

Many other functions are very similar. Under the current system, precinct polling places essentially are places where officials receive ballots from electors and handle them as provided by law. When that is complete, officials place the ballots in transport boxes, seal those boxes, and transport them to a central location. These aspects are retained for places of deposit in the mail ballot system.

ITEM 6: AVAILABILITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: There will be places where people can return their ballots in person. And if they do, officials will do some of the processing while the elector is right there so that if any questions come up they can be resolved with the elector right then.

LEAGUE STATES: "Sections 19 and 20 taken together would undercut the strong points of having an election by mail!"

RESPONSE: We are not sure what the point is. It seems however that the League is suggesting that just having places where ballots can be returned in person undercuts the advantages of mail elections. We don't agree.

Please note that no one is required to deliver their ballot in person, but it is allowed. People are not prohibited from having someone else deliver their ballot for them. Section 18 is permissive, and sections 16 and 24 only require return (by any means) prior to the close of voting on election day. Section 20 only requires that if a ballot is returned in person, certain things must be done while the voter is right there.

It is not required that ballots be retained at the place of deposit until the close of voting. Transport boxes could be picked up and exchanged at anytime (as is currently allowed for polling places under 13-15-103). This would allow for the ongoing processing of ballots which is one of the "strong points" of mail elections. As long as all statutory procedures are followed (seals, records of seal numbers, certificates of transporters, etc.) there shouldn't be any problem.

ITEM 7: INITIATION OF MAIL BALLOT OPTION

SB 169 PROVIDES: Either the governing body or the election administrator can start the process, and either can stop it. The consent of both is required or the mail ballot option cannot be used.

LEAGUE STATES: "Since the political sub-division pays the cost of the election, the decision should rest with the governing body of the sub-division, if the election administrator agrees that such an election would be feasible. Giving broad discretion solely to the election administrator (page 7, lines 5-7) is not recommended by the League."

RESPONSE: A quick review of sections 7, 8, 9 and 10 should reveal that either can start it and either can stop it. Section 10 provides that if the governing body says no, then it can't be done by mail ballot. The language challenged by the League simply gives the same option to the election administrator. We do not agree that that is an overly broad grant of discretion.

Mail ballot elections are entirely new to Montana. The proponents feel strongly that, at least in the beginning, extra measures must be taken to guard against mistakes. We would not be comfortable having an irrigation district, for example, take on this new procedure on their own.

That is why the election administrator is injected in the process. That is also the reason for the written plan and its review by the Secretary of State. The jurisdiction is given a "final say" because it's their election. The election administrator is given a "final say" because it's a new process and she's the one with the knowledge and experience to ensure that is implemented properly.

Over time, once the jurisdictions are familiar with the process, it may be possible to reduce the election administrator's discretion in this area and transfer more to the governing body by itself. But we need to have some experience with this system first.

ITEM 8: STATEMENT OF PURPOSE

SB 169 PROVIDES: A statement of purpose containing various policy considerations.

LEAGUE RECOMMENDS: "Finally, we would ask that all the language in Section 1 following "therefor." on line 14, page 1, be stricken. These sentences are the expression of opinions that do not accurately reflect how Montanans view their democratic system of government."

RESPONSE: Statements of purpose are only useful as statutory expressions of legislative intent. They often aid in ensuring that any subsequent judicial interpretation of the legislation will be consistent with the reasons for the legislative action.

They are expressions of opinion. But once enacted, they are the expression of legislative opinion. The proponents disagree with the League's assessment that any consideration of cost-effectiveness is irrevalent when it comes to elections.

We disagree that "the best and only truly proper reasons for supporting" the mail ballot option are that "they offer the voter more convenience" and "often result in higher voter participation." We believe that if these things occur because of a method which is also cost-effective, then that is an equally valid and proper reason for supporting the mail ballot concept.

(This sheet to be used by those testifying on a bill.)

SB-169
2-4-85

NAME: Betty T. Lund Election Administrator DATE: 2/4/85

ADDRESS: Ravalli County Courthouse Hamilton Mt.

PHONE: 363-

REPRESENTING WHOM? Election Administration Advisory Council

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENT: Election Administration Advisory Council formed by Sec. of State to solve problem areas in election. Saw mail ballot a potential solution to our special district elections.

Example - Linn County Oregon -

11/3/81 - 66-78% turnout cost per reg. voter 46¢ " " voting person 77¢

8/10/82 - 92.5% vote turn out vs statewide 26.3%.
cost ∛ mail ballot 59¢ cost ∛ polling place ballot $2.11 1.5 ea

increased voter participation - 3 times greater

vote acceptance - shown by participation

enhanced integrity of the election

does not increase cost ∛ election -- ⅓ less

Hamilton Municipal Election - 10.5% turnout -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY IN SUPPORT OF SENATE BILL 169
(Mail Ballot Elections)

The Arnold, Birely, Danford and Shiloh Drains of Yellowstone County wish to present their written testimony to the Senate State Administration Committee in support of SB 169.

The drain districts are the type of public entity which can be best served by a mail ballot election.

These four drain districts, like many others, were organized in the 1920's and 1930's when a small number of landowners/farmers in the area of each district petitioned the District Court for an order establishing a drainage district as a corporate body.

Since establishment of the districts the commissioners have, upon the approval of the District Court, periodically certified an assessment to the agent for the Department of Revenue for the County. The assessments are levied and collected with real property taxes. The primary purpose for levies has been to repair and maintain the drainage ditches.

While 50 years ago these districts consisted of farmland, the property within the districts has become substantially subdivided into multi-family and single family residences. For example, the Shiloh Drain District in 1938 consisted of 15 parcels of land owned by 15 individuals. In 1982, the last year in which an assessment was made for Shiloh Drain, there were approximately 585 separate parcels of property within the district whose owners are subject to assessment. The Arnold Drain includes substantially more property owners than the Shiloh Drain. The other two drains are somewhat smaller.

The Shiloh Drain assessment in 1982 raised approximately $3,359.00. The assessments are based on the historic assessed value for a particular parcel of land which depends upon the benefit received by the parcel at the time of construction of the drain ditch. The owners of farmland within the district pay according to that historic acreage charge. However, the drain districts have established a $1.00 minimum assessment per parcel of property. Eleven of the property owners of Shiloh Drain paid more than $50.00 on the assessment. By far the greatest number of assessments are $1.00 to $2.50 per parcel.

Generally, the residential owners have not been interested in the operation or maintenance of the drain districts. The removal of excess irrigation water and groundwater are historic problems of the district which have little meaning to most of the residents. However, irrigated farmland remains within the districts and continues to need drainage ditches for removal of excess irrigation water and groundwater. The drain districts are not obsolete as entities but are of interest to very few.

The commissioners have been concerned about the expense and difficulty of holding conventional elections for their commissioners. The expense of an election would be far in excess of the amount periodically raised for the maintenance of the drain ditches. It has also been the experience of the commissioners that many, if not most, of the property owners in the district are not interested in voting for the election of the commissioners.

The mail ballot proposal offered a practical solution to the problems of expense and limited interest faced by small public bodies such as drain districts, while assuring that interested citizens have the ability to participate in elections if they desire.

In order to make a levy of an assessment, the commissioners must have the list of property owners updated. By presenting this list to the election administrator, the mail ballot procedures can be followed by mailing a ballot to each of the land owners listed. After the election of the commissioners, the need for and amount of an assessment can be determined following the existing statutory procedures.

We believe that the mail ballot offers a simplified procedure for participation of interested citizens in matters such as drain district elections without undue administrative expense. For the reasons presented we urge favorable consideration of SB 169.

Laura A. Mitchell

LAURA A. MITCHELL
Secretary for
Arnold Drainage District
Birely Drainage District
Danford Drainage District
Shiloh Drainage District

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 9, 1985

The twenty-second meeting of the State Administration Committee was called to order by its Chairman Jack Haffey at 12:00 p.m. on Saturday, February 9, 1985, in Room 331 of the Capitol Building.

ROLL CALL: All the members were present with Senator Conover and Senator Tveit arriving late.

EXECUTIVE ACTION ON SENATE BILL 147: Senator Haffey said that he introduced this bill at the request of Jack Noble of the University System. He said the bill had two parts. The first part was to create a subfund to keep up with computer hardware, and the second part was to let the students at the university retain the interest on the money that is theirs. Senator Haffey wanted the members to know that even if this bill does not pass, the students will not be harmed. They will be able to retain their interest on their money. Senator Haffey said that he has received no definitive support for the subfund, and asked what the committee wanted to do. Senator Farrell moved that SENATE BILL 147 do not pass. Senator Lynch called question, and the Committee voted aye, with Senator Lynch voting no, that SENATE BILL 147 DO NOT PASS.

EXECUTIVE ACTION ON SENATE BILL 169: A statement of intent was entered with this bill and the Committee voted to adopt the statement of intent as is, with Senator Lynch, Senator Tveit and Senator Manning not voting. Senator Manning made a motion that SENATE BILL 169 do pass. Senator Lynch asked Senator Harding if they weren't working on some amendments. Senator Harding said yes, but they do not apply. Senator Lynch said he would oppose the bill then because he felt that they should enclose postage-paid envelopes. An amendment was entered doing just that, and marked Exhibit "A" attached hereto and by this reference made a part hereof. Senator Mohar made a motion that Senate Bill 169 be amended to include a postage-paid envelope. Senator Harding said these ballots were to be a convenience, to improve voter participation and to cut down costs and she did not believe this was necessary. Therefore, she hoped the amendments do not pass. Senator Haffey called for a roll call vote on Senator Mohar's motion, and the Committee voted 7 no and 3 yes, so Senator Mohar's motion does not carry. (Roll call vote attached hereto marked Exhibit "B" and by this reference made a part hereof.) Question was called on the original motion and with Senator Lynch voting no, the Committee voted that SENATE BILL 169 DO PASS.

ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 2-

NAME	PRESENT	ABSENT	EXCU
SEANTOR JACK HAFFEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	✓		
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER		Exc	
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓		
SENATOR DICK MANNING	✓		
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT		Exc	

Exhibit 4
SB-169
2-9-85

Item 2: Postage

Alternative A: Require government to pay ballot return postage.

SB 169, Introduced (white), be amended as follows:

1. Page 9, line 17.
   Following: "a"
   Insert: "postage-paid"

2. Page 12, line 22.
   Following: "United States mail"
   Strike: ", with sufficient postage affixed"

   Supported by: League of Women Voters

Alternative B: Allow Government to pay at its discretion.

1. Page 9, line 17.
   Following: "envelope"
   Strike: "; and "
   Insert: "which may be postage paid at the discretion of the political jurisdiction for whom the election is being conducted; and "

Supporting **existing** language (or at least Alternative B):

Montana League of Cities and Towns
Montana Association of Counties
Montana Association of Clerks & Recorders
Secretary of State

Exhibit "A-1"
SB-169
2-8-85

MR. PRESIDENT:

We, your committee on State Administration having had under consideration SENATE BILL 169, attach the following statement of intent:

STATEMENT OF INTENT

Senate BILL NO. 169

A statement of intent is required for this bill because section 6 grants the secretary of state authority to adopt rules for the conduct of mail ballot elections. It is intended that the authority to adopt rules extends only to the areas specifically provided for in section 6. Rules are to be adopted under the Montana Administrative Procedure Act. The rules must be consistent with the provisions of the act.

It is intended that use of the mail ballot option will be entirely optional and within the discretion of the applicable jurisdiction and election administrator.

It is intended that nothing in this act be interpreted as requiring either the election administrator or the applicable jurisdiction to select or use the mail ballot option.

It is intended that use of the mail ballot option is authorized only for the specific elections enumerated in this act. It is further intended that the elections for which the mail ballot option may be used will be only those elections for which special circumstances make the use of the mail ballot option potentially the most desirable of the available options.

Exhibit B
SB-169
2-9-85

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

Date 2-8-85 Senate Bill No. 169 Time 12:15

NAME	YES	NO
SENATOR ANDERSON		✓
SENATOR CONOVER	✓	
SENATOR FARRELL		✓
SENATOR HARDING		✓
SENATOR LYNCH	✓	
SENATOR MANNING		✓
SENATOR MOHAR	✓	
SENATOR TVEIT		✓
SENATOR HIRSCH, Vice-Chairman		✓
SENATOR HAFFEY, Chairman		✓
	3	7

Glenda Pennington
Secretary, Glenda Pennington

Jack Haffey
Chairman, Senator Jack Haffey

Motion: Senator Mohar ~~re~~ moved that SB-169 be amended to include a postage-paid envelope.

1985

STANDING COMMITTEE REPORT

February 9, 19 65

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 169

first reading copy (white)
color

AUTHORIZING OPTION TO CONDUCT CERTAIN ELECTIONS BY MAIL BALLOT

Respectfully report as follows: That SENATE BILL No. 169

DO PASS

~~DO NOT PASS~~
STATEMENT OF INTENT ADOPTED
AND ATTACHED

Chairman.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 13, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 163: Sen. Ethel Harding, Senate District #25, said that this should have been changed in the codification process which would delete the department of commerce's responsibility to provide standard and sample petition forms to cities and towns.

PROPONENTS: Don Dooley, Department of Commerce, said this was transferred in 1979 to the department of community affairs, then to the department of administration and is currently in the department of commerce. He said the secretary of state has the duty to take care of this.

PROPONENTS: There were no proponents.

OPPONENTS: There were no opponents to the bill.

There being no questions from the Committee, Sen. Harding closed, asking for passage of the bill.

CONSIDERATION OF SENATE BILL NO. 169: Sen. Ethel Harding, Senate District #25, said this was the answer to all small districts and cities and towns' problems with elections and came from the office of the secretary of state. They worked on this over a period of two years with these districts, cities and towns and clerks and recorders.

PROPONENTS: Jean Johnson, Secretary of State, Elections, gave brief history of mail ballot procedure and what it does. It was created out of a need to have a cost effective election and said there is a substantial cost savings in mail ballots. She said the procedure is similar to an absentee ballot and is more convenient. She showed a sample ballot from Vancouver, Washington and explained the process to the Committee.

Alan Robertson, Legal Counsel for the Secretary of State, handed out a review of the bill section by section and went through the points contained in the handout. He stated that this is an option and not mandatory. He explained that the mail ballot is essentially an absentee ballot and the only people to be concerned about would be the people who would be out of town during the mailing period, however, they could leave their forwarding address and the ballot would be mailed to them. The ballots may be mailed back or they can return the ballot in person.

The Senate questioned whether people should have to purchase postage to return the ballots, however, they could drive to the election administrator's office and return the ballot. There is nothing prohibiting a spouse returning a ballot for his/her spouse or children. The person returning the ballot would have his signature verified but the ballot being returned by another person would be treated as if it had been returned by mail. The bill provides for signature verification. Voting is a right of the people but there are certain requirements for voting.

Betty Lund, Election Administrator from Ravalli County, said voter turnout has increased significantly in mail ballot elections. It would be a tremendous cost savings and she said that the election administrator and local governing bodies have to work together. She said it would increase the integrity of the election system and there would be more control of the ballots. Voter acceptance would also be a consideration. She said it would be very well accepted by voters and certainly the election administrators. Their purpose is to do the best they can to get the voters to vote.

OPPONENTS: Margaret Davis, League of Women Voters, passed out proposed amendments, Exhibit #4, to the Committee members. She said the League is not an opponent to election by mail ballot but they had such extensive amendments they felt they should appear as an opponent rather than a proponent. She also read her prepared testimony which is attached. If the ballot is to be by mail have it strictly by mail and not open polling places. She also stated that school districts have been omitted from the bill and said it was interesting to note that these elections by mail have proved very effective for school districts. She suggested that the staff researcher look at the amendments in conjunction with the bill. She also said that other states have provided for prepaid postage on the ballots which still costs less than holding an election.

There were no further opponents.

The Chairman then asked if there were any other proponents that wished to speak briefly.

PROPONENTS: Ken Kelly, Montana Water Development Association and Montana Irrigators, Inc., said there are 450 water users in the valley and at their annual meeting they had 22 present. In view of this, the minority is ruling rather than the majority and felt that the ballot by mail might get it back into the hands of the majority.

Arnold Peterson supported the bill without any changes. He said he would be driving 22 miles to vote and would not resent paying the postage to return his ballot instead.

Alec Hansen, Montana League of Cities and Towns, said it makes the process more convenient, better participation and offers a possibility of saving some money.

Teri England, Montana PIRG, said it would also strengthen the democratic process.

Joan Peres, Montana Association of Clerks and Recorders, strongly supported the bill.

Gary Pringle, Clerk and Recorder of Gallatin County, urged support of the bill.

DISCUSSION OF SENATE BILL NO. 169: Rep. Nelson asked why the school districts were not included in the bill and Mr. Robertson said simply because they didn't want to fight the issue. They checked with all the school associations and they didn't want to be included so without them wanting to be included they were just omitted.

Rep. Harbin asked if the ballot was deposited in the mail with no postage would the election administrator accept the ballot. Mr. Robertson said that would probably be up to the election administrator. The ballot could not be returned to the sender because there is no return address.

Chairman Sales asked Margaret Davis if the Secretary of State's office contacted the League of Women Voters for any input on this bill. She replied they did not on this bill, however, they have in the past.

Jean Johnson said they worked with the Advisory Council in drafting the bill. They took it to the Montana Association of Clerks and Recorder over two years ago. She said she did visit with Mrs. Davis before the bill came before the Senate Committee and asked if they could work together on it. This bill was a combination of Advisory Council, clerks and recorders, water people, drainage people and all people who deal with elections.

Rep. Cody asked if there were any problems with the amendments submitted by the League of Women Voters. Ms. Johnson said this morning was the first time they have had a copy of the amendments. Rep. Cody asked if she would have any problem changing the bill with those amendments. Ms. Johnson explained that the mail ballot is totally optional and as far as a second polling place for the ballots to be delivered, that is the determination of the election administrator. This would be staffed by a deputized person, not by three judges. Rep. Cody asked why the counties couldn't use a bulk mailing permit on the ballot return envelope. Ms. Johnson said that the Legislature decided years ago that when you vote absentee the voter pays his own postage.

Rep. Jenkins questioned Mrs. Davis about the cost of driving to the polling place as compared to mailing the ballot. She said that Oregon has a law that provides for prepaid postage for ballot issues and only the ones that are returned are paid for.

Rep. Cody asked why these amendments weren't submitted to the Senate Committee. Mrs. Davis said she was unable to be at that hearing and they were addressed with both Jean Johnson and Larry Akey of the Secretary of State's office. She said they have been kept informed on what the League's position was since they first got the bill.

There being no further questions, Sen. Harding closed, saying that the mail ballot is purely optional. She said that we have heard from the small districts, the cities and towns. The small cities and towns have to go by the election codes set up by the Legislature. These small cities and towns want a good process but not the cost. As to the prepaid postage, a number of years ago it was decided that an absentee voter could pay their own return postage. Driving to the polls would cost more than the 22¢ stamp. She said if the Committee is concerned with the amendments submitted that a subcommittee be appointed to get together with Mrs. Davis and Jean Johnson but do not allow for prepaid postage. These small districts cannot afford to pay postage for return ballots. She also said that any problems that might develop with the system could be taken care of next year.

CONSIDERATION OF SENATE BILL NO. 164: Sen. Ted Neuman, District #21, said this bill would allow the board of investments to hire their own personnel. Currently, they hire only the investment officer and his assistant. He presented a list of 13 other state agencies that hire their staff and would make the board of investments consistent with the other agencies. It also defines the statute of who keeps track of the accounts and books of the funds the board of investment administers and gives this authorization to the board of investments.

PROPONENTS: Dave Ashley, Department of Administration, supported the bill. He said it would provide for the board of investments to hire their own staff and that they keep a tally of the accounts invested in each fund that they administer.

Jim Howeth, Board of Investments, supported the bill.

OPPONENTS: There were no opponents to SB 164.

DISCUSSION OF SENATE BILL NO. 164: Rep. Cody asked what the checks and balances would be for the board of investments. Mr. Howeth said they are the only state agency in the Constitution that requires them to be audited every year. Rep. Cody asked who would do that audit. Mr. Howeth replied that it would be by the Legisaltive Auditor or by an outside auditor chosen by

This takes care of any irregularities or other concerns with the issuance of bonds. This makes everyone happy including the bond buyers, the bond attorneys, etc.

PROPONENTS: Dave Ashley rose in support of the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 162: Rep. Fritz asked why this is done every two years. Chairman Sales said that the bonding procedures are very complicated in the law. Every two years they just say that everything has been done; the bonds are sold, everyone is happy and the legislature validates the procedures.

Rep. Cody asked if anyone had ever complained in the past. The feeling was that if anything ever goes to court this would not stop those proceedings.

Without further comment, Sen. Daniels closed.

The Committee then went into executive session on the bills previously heard.

DISPOSITION OF SENATE BILL NO. 162: Rep. Smith moved that SB 162 BE CONCURRED IN, seconded by Rep. Peterson. The motion CARRIED UNANIMOUSLY. Chairman Sales will carry the bill on the floor.

DISPOSITION OF SENATE BILL NO. 198: Rep. O'Connell moved that SB 198 BE CONCURRED IN, seconded by Rep. Harbin. The motion CARRIED with Reps. Peterson, Smith and Campbell voting "no".

Rep. Cody remarked that she was amazed to hear Mr. Hauck say that the tramway operators asked for a tax on themselves so they could be inspected. Chairman Sales said it is much easier to get insurance if they are inspected.

DISPOSITION OF SENATE BILL NO. 164: Rep. Cody moved that SB 164 BE CONCURRED IN, seconded by Rep. Compton. The motion CARRIED UNANIMOUSLY and Rep. Darko will carry the bill.

DISPOSITION OF SENATE BILL NO. 169: Rep. Cody moved that a subcommittee be appointed for the purpose of studying the League of Women Voter's amendments and the bill itself. She said she hadn't had time to study the bill and would like to see the amendments put into the bill and see what the changes are.

Rep. Phillips said that this should be given some time to work. They have worked on this for two years and the League isn't involved in running elections like these other people are. Rep. Harbin concurred with Rep. Phillips and made the SUBSTITUTE

The Substiture Motion CARRIED with Rep. Cody voting "no". Rep. Hand will carry SB 169 on the floor.

DISPOSITION OF SENATE BILL NO. 163: Rep. O'Connell moved that SB 163 BE CONCURRED IN, seconded by Rep. Peterson. The motion CARRIED UNANIMOUSLY. Rep. Phillips will carry the bill.

There being no further business, the Committee adjourned at 10:40 a.m.

WALTER R. SALES, Chairman

ls

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/13/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Holliday, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet	✓		
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

STANDING COMMITTEE REPORT

March 13 19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 169

Third reading copy (Blue color)

AUTHORIZING OPTION TO CONDUCT CERTAIN ELECTIONS BY MAIL BALLOT

Respectfully report as follows: That Senate Bill No. 169

BE CONCURRED IN

XXXXXXX
DO PASS

Walter R. Sales, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

SENATE BILL NO. 169

Section by Section Review

Sec. 1 Statement of Purpose: Outlines policies behind act. Clearly states that intent is to provide option.

Sec. 2 Definitions: Self explanatory.

Sec. 3 MBE Procedure: Outlines major steps of MBE. Defines MBE in terms of procedures used.

Sec. 4 MBE not mandatory - authorized -- prohibited:

(1) **Act is an option -- not mandatory**

(2) Specific cases when may be used.

(a) Districts with annual elections.

- drainage districts;
- irrigation districts;
- fire districts;

(b) In 3rd Class cities (1,000 to 5,000) ballot issues and non-partisan candidate elections.

(c) Towns (under 1,000) any election conducted by the town.

POINT: SB 169 is a response to a two-year study of receiving problems in the election area. **The cost and frequency of elections, not to mention the dismal rate of participation, are very real problems for small cities and towns. A quick conversation with officials in places like Moore and Judith Gap will verify that fact.**

The mail ballot option is one possible solution. Disincorporation for small towns is another. Forcing everyone to live with the problem is the third.

(d) County water and sewer districts in unincorporated areas.

POINT: When these districts can't "tie in" with a municipal election, thus sharing both the cost and the turn out factor, they have to stand alone, bearing the whole cost of the election and relying on their "single issue" to bring folks to the polls.

(e) "special" elections on ballot issues only in any local government unit (city, county or special district).

(3) **Prohibited elections:**

(a) any regularly scheduled primary or general held in an even-numbered year.

(b) any regularly scheduled primary or general held in an odd-numbered year except (1) non-partisan elections in 3rd Class cities or (2) elections in towns.

(c) any school district election of any kind or purpose.

(d) any recall election

(e) any election involving candidates except

- candidates for trustee of a special district (fire, irrigation, drainage, or water and sewer);
- non-partisan candidates in 3rd Class cities;
- all candidates in towns.

POINT: Campaigning in an MBE will be different, so almost all candidate elections have been excluded. But as any rural Montanan knows, politics in communities with only a few hundred voters are quite different from politics in larger cities.

(f) special elections being held in conjunction with any regularly scheduled primary or general.

Sec. 5 General election laws apply: Balance of Title 13 covers things not specifically dealt with in this act.

Sec. 6 Role of Secretary of State: Specifies role of his office.

Sec. 7 How MBE Initiated: Either the Election Administrator or the governing body.

Sec. 8 Initiation by Gov Body: Pass resolution asking election administrators to conduct election by mail ballot. Election administrators can say no.

Sec. 9 Initiation by Election Administrator: If election administrator wants to do a MBE she writes a plan and sends it to the Gov. Body.

POINT: Mail ballot elections are entirely new to Montana. The proponents feel strongly that, at least in the beginning, extra measures must be taken to guard against mistakes. We would not be comfortable having an irrigation district, for example, take on this new procedure on their own.

That is why the election administrator is injected in the process. That is also the reason for the written plan and its review by the Secretary of State. The **jurisdiction is given a "final say" because it's their election. The election administrator is given a "final say" because it's a new process and she's the one with the knowledge and experience to ensure that it's implemented properly.**

Over time, once the jurisdictions are familiar with the process, it may be possible to reduce the election administrator's discretion in this area and transfer more to the governing body by itself. But we need to have some experience with this system first.

Sec. 10 Objection by political subdivisions: Governing Body can say no by passing resolution.

POINT: Process can be started by either the election administrator or the Gov. Body, and either can say no. Consent of both is required.

Sec. 11 Written Plan to Secretary of State: This is needed, at least initially, to insure that uniformity is maintained and procedures are correctly followed. The "written plan" idea has been used successfully in other states as a means of implementing this new idea.

Sec. 12 Proportional Voting: Some jurisdictions allow weighted voting (e.g. irrigation districts -- 85-7-1710 -- allow one vote for every reg. elector owning less than 40 acres and, for those owning more than 40 acres, one vote for every 40 acres owned). This section allows weighting mail ballots in those instances.

Sec. 13 Distributing materials to electors: Covers what is sent out and how.

SB 169 does not provide for postage on the return/verification envelope (page 9, line 17, for two reasons:

(1) Years ago, the legislature decided that an elector voting by absentee ballot, rather than the government, should pay the postage for returning that ballot. The mail ballot election, essentially, is one where everyone votes "absentee".

(2) The voter can avoid paying postage by simply hand delivering his ballot. This is no greater burden than driving or walking to the polls on election day. And $ .22 isn't too much to ask for the convenience of returning a ballot by mail.

POINT: The two major reasons for providing certain political jurdisdictions with the mail ballot option are to increase participation and lower costs. Studies in Oregon show the first election where voters had to pay their own postage resulted in a 92% "turnout" and not one complaint. As long as we can ensure a high rate of participation, why not ensure the lower cost factor also? A MBE where the voter supplies his or her own $ .22 stamp lowers the cost to 20% - 40% of a polling place election.

Sec. 14 When material mailed: All mailed same day -- between the 15th and 25th days before.

Sec. 15 Voting when elector is absent: Since virtually everyone will be voting as they would if they had requested an absentee ballot, we don't need to provide for much in the way of actual absentee balloting. Only those who will be away for the whole time the election is being conducted (15 to 25 days) need to be provided for. And under this section, they simply provide the address where they would like their ballot mailed.

Sec. 16 Voting mail ballots: Specifies how a vote is actually cast in a MBE.

Sec. 17 Replacement ballots --procedure: If a ballot is lost, doesn't get delivered or gets ruined, this provides the mechanism for still getting to vote.

POINT: Many may not realize, but even in conventional elections, if you ruin your ballot you can get a replacement.

Sec. 18 Returning marked ballots: May return it on or before election day, either in person or by mail.

POINT: This bill retains the practice of going to the polls on election day and casting your ballot. If a person wants to still do it that way, it's possible.

Sec. 19 Places of Deposit: These are to be like polling places and, on election day itself, they will be open the same hours. If a person likes going to the polls, or doesn't want to pay the postage, or doesn't want to take a chance on his ballot getting lost, or even if it's simply more convenient to hand deliver -- that is provided for. And, he can do it either on or before election day.

NOTE: Many "places of deposit" functions are very similar to those of a precinct polling place. Under the current system, polling places essentially are places where officials recieve ballots from electors and handle them as provided by law. When that is complete, officials place the ballots in transport boxes, seal those boxes, and transport them to a central location. These aspects are retained for places of deposit in the mail ballot system.

It is not required that ballots be retained at the place of deposit until the close of voting. Transport boxes could be picked up and exchanged at anytime (as is currently allowed for polling places under 13-15-103). This would allow for the ongoing processing of ballots which is one of the "strong points" of mail elections. As long as all statutory procedures are followed (seals, records of seal numbers, certificates of transporters, etc.) there shouldn't be any problem.

Sec. 20 Disposition of Ballots returned in person: This covers how hand delivered ballots are handled.

NOTE: This section does not say that a woman, for example, cannot hand deliver her own ballot, her husband's, and her child's. It simply says that if a voter delivers their own ballot, in person, then officials must do certain things (like verify the signature) while that person is there in the office.

This prevents an elector having to make a second trip in because something came up that could have been handled while she was there the first time. This is also the only reason for the log which electors sign -- just so questions about the signature can be resolved while the person is actually there and so they won't have to make another trip. The husband's ballot would simply be handled as if it were received in the mail.

Sec. 21 Disposition of ballots returned by mail: This covers how to handle ballots that are returned by mail.

Sec. 22 Signature Verification: **This is the main way to guard against fraud. It's the same procedure that has been used for absentee ballots for years** -- except that it has more protection for the voter (e.g. if there's a problem you can call the voter and have them come in). Right now, under the absentee ballot provision if there's a problem with the signature, etc. the voters ballot is just rejected.

These additional protections for the voter are necessary because everyone's signature will need to be verified, not just the relatively few who now vote by absentee. **The protections shouldn't be overly burdensome on officials since processing the ballots will be spread out over two weeks not concentrated on one day.**

Sec. 23 Voting by nonregistered electors: Some jurisdictions (e.g. irrigation districts) allow people to vote even if they aren't registered. This section provides for that for MBE.

POINT: Participation in an election is a right. But registration has long been held to be a reasonable requirement and not an infringement on that right. Likewise, it is reasonable to require a little extra from a non-registered elector who wishes to participate in an MBE. Officials have to have some means for knowing where to mail the ballot and for verifying the signature to prevent fraud. If the jurisdiction feels this section is overly burdensome, then they do not have to choose the mail ballot option.

Any such person would have up to five weeks to comply with this section. Surely that would not be too great an inconvenience.

Sec. 24 Valid Ballots: This section makes it very clear what must be done in order to have your ballot count.

Sec. 25 Notices to electors -opportunity to resolve: Every year in almost every county there are absentee ballots which aren't counted because the voter forgot to sign the affidavit or his signature couldn't be verified.

This section provides optimum opportunity to the elector to have his ballot count.

Minor or procedural mistakes would be things like: not signing the affadavit; not enclosing the ballot secrecy envelope in the return/verification envelope (hand delivered); two ballot secrecy envelopes in one return envelope; signing a married name when the registration card has the maiden name; or writing your name on the secrecy envelope.

Sec. 26 Resolving issues in question: This covers how to resolve any question that comes up as to the validity of a ballot. Provides further safeguards against fraud.

Sec. 27 Procedure at close of voting: This covers how to proceed when voting is over.

Sec. 28 Amending 7-13-2236: This was necessary to allow water and sewer district elections in unincorporated areas to be done by mail ballot.

Sec. 29 Amending 13-1-401: This further allows special districts to use the MBE option.

NOTE: Districts may still hold their elections at other times (with schools or at their annual meeting) if they wish.

Sec. 30 Effective Date: This is so the procedure can be in place before fall in case some areas want to use it -- like perhaps the county water and sewer district in the Lincoln area of Lewis and Clark County.

Non-partisan General Municipal Election 11/8/83

Ravalli County

Estimated Costs Mail Ballot Election

	Hamilton	Darby	Stevensville		Hamilton	Darby	Stevensville
ges	703.60	191.16	246.20	Counting Crew 4x5hr x $3.25	22.00	22.00	22.00
lots	166.50	37.00	64.75	Ballots	166.50	37.00	64.75
'ertising	11.76	11.76	11.76	Advertising	11.76	11.76	11.76
.lot Stamps	9.00	6.00	6.00	Ballot Stamps	9.00	6.00	6.00
;entee Ballots	6.00	1.20	2.10	Absentee Ballots	none	none	none
ec. Register	85.25	15.20	37.35	Precinct Register	none	none	none
ec Supplies	9.75	6.50	6.50	Elec Supplies	1.00	1.00	1.00
it Polling aces		25.00	40.00	Rent Polling Places	none	none	none
				Postage	301.41	56.27	133.11
				Print Envelopes	312.00	69.00	162.00
st of Elect	991.86	294.42	414.66	Cost of Elect	823.67	203.03	400.62
tal Vote Cast	527	100	79	Total Predicted Vote cast 70%	1241	232	548
st per Vote	1.88	2.94	5.25	Cost per Vote	.66	.88	.73
tal Registered	1773	331	783	Total Registered	1773	331	783

Mr. Chairman and Members of the Committee,

For the record my name is Betty Lund. I am the Election Administrator of Kawaii County and Chairman of the Election Administration Advisory Council which was formed by the Secretary of State. Its purpose was to study problems that plague the Election Administrator and perhaps offer some solutions. In this Committee we began looking at the mail ballot elections in the fall of 1983 as perhaps a way to increase voter participation in our irrigation, drainage, fire and even municipal elections.

The bill that is before this committee today is a result of several years of research and examination. We feel the mail ballot election has four positive points.

First and most important are the statistics on voter participation. In every mail ballot election that has been held, there has been a significant increase in voter turnout. One outstanding example is an election that was held in Jenn County, Oregon on Aug. 10, 1982. The mail ballot participation was 92.5% whereas a state-wide election held that same day had a voter turnout of 26.3%

A second factor in support of the mail ballot is the cost effectiveness. Again, the statistics from Linn County are impressive. The cost of each mail ballot cast was 59¢ in comparison with the cost of $2.11 per ballot cast in an ordinary election. The average cost for the statewide election ballot held on the same day was $1.17.

I would like to add that in the Aug. 10th mail ballot election the voter had to put the return postage on the envelope even though all other election had the return postage paid. The county officials felt that there was virtually no impact on the voter participation due to this change.

A third consideration of mail balloting is the increase in the integrity of the election system through the ability to carefully verify signatures, increase control over issuance of correct ballots and through the ability to produce immediate election results.

The fourth and last point for your consideration is that the voter acceptance is overwhelming. A county clerk in

"I've never conducted an election where I've had so much positive comment." Congressman

I would appreciate your support of this bill. Thank you.

SB 169 HOUSE STATE ADMINISTRATION COMMITTEE HEARING 3/13/85

Chairman Sales, Vice-chairman O'Connell, and members of the committee, for the record, my name is Jean Johnson. I work for the Secretary of State's office in elections and special projects.

At issue this morning is whether or not election administrators and certain political jurisdictions have the option to conduct their elections by mail ballot.

I want to give you a brief history of the mail ballot election procedure and what it does.

The city of Monterey, CA actually pioneered this method in 1977 when it became necessary to conduct an election for the creation of a water management district. It was obvious to city officials that such an election standing alone would be very costly and the need to cut those costs led to the creation of the mail ballot method.

In 1981 Oregon became the second state to pass legislation authorizing the mail ballot option. Washington and Kansas followed in 1983. (In 1982 Rochester, New York conducted a single-issue election by mail ballot through a "loophole" in state election laws which excluded the coverage of "special elections limited to local referendum issues."

Actually, Washington has used mail ballots for all voters in every election in precincts of one hundred or less registered electors for around 40 years. Officials there report substantial cost savings and always a 70 - 80% turnout in those precincts. Overall, hundreds of thousands of ballots have been cast by the mail ballot procedure in the eight years since the Monterey Peninsula Water Management District election. Very, very few problems have been reported.

The largest mail ballot election was conducted in San Diego, CA in 1981 and involved 432,000 registered voters. We aren't proposing anything like that for Montana!

Secretary Waltermire began looking at the mail ballot precedure over two years ago in response to a number of problems that seemed to plague special districts and small towns like Judith Gap and Moore. There are other individuals here this morning who will address those issues.

Last May, the city of Vancouver conducted the first election by mail under Washington's new law. There were roughly 22,000 eligible voters in that election and I want to show you how it looked to those people.....

As far as the voter is concerned, the procedure is as familiar as the absentee ballot and infinitely more convenient than trying to remember that there's a fire district election, sometime...soon...

As far as Montana's election administrators are concerned, we've had a lot of "hands on" assistance in the creation of SB 169 and we're all satisfied with the result.

The Secretary of State's legal council, Alan Robertson, will present a section by section overview of SB 169. And I'd be happy to answer questions later.

Thank you.

TESTIMONY IN SUPPORT OF SENATE BILL 169
(Mail Ballot Elections)

The Arnold, Birely, Danford and Shiloh Drains of Yellowstone County wish to present their written testimony to the House State Administration Committee in support of SB 169.

The drain districts are the type of public entity which can be best served by a mail ballot election.

These four drain districts, like many others, were organized in the 1920's and 1930's when a small number of landowners/farmers in the area of each district petitioned the District Court for an order establishing a drainage district as a corporate body.

Since establishment of the districts the commissioners have, upon the approval of the District Court, periodically certified an assessment to the agent for the Department of Revenue for the County. The assessments are levied and collected with real property taxes. The primary purpose for levies has been to repair and maintain the drainage ditches.

While 50 years ago these districts consisted of farmland, the property within the districts has become substantially subdivided into multi-family and single family residences. For example, the Shiloh Drain District in 1938 consisted of 15 parcels of land owned by 15 individuals. In 1982, the last year in which an assessment was made for Shiloh Drain, there were approximately 585 separate parcels of property within the district whose owners are subject to assessment. The Arnold Drain includes substantially more property owners than the Shiloh Drain. The other two drains are somewhat smaller.

The Shiloh Drain assessment in 1982 raised approximately $3,359.00. The assessments are based on the historic assessed value for a particular parcel of land which depends upon the benefit received by the parcel at the time of construction of the drain ditch. The owners of farmland within the district pay according to that historic acreage charge. However, the drain districts have established a $1.00 minimum assessment per parcel of property. Eleven of the property owners of Shiloh Drain paid more than $50.00 on the assessment. By far the greatest number of assessments are $1.00 to $2.50 per parcel.

Generally, the residential owners have not been interested in the operation or maintenance of the drain districts. The removal of excess irrigation water and groundwater are historic problems of the district which have little meaning to most of the residents. However, irrigated farmland remains within the districts and continues to need drainage ditches for removal of excess irrigation water and groundwater. The drain districts are not obsolete as entities but are of interest to very few.

The commissioners have been concerned about the expense and difficulty of holding conventional elections for their commissioners. The expense of an election would be far in excess of the amount periodically raised for the maintenance of the drain ditches. It has also been the experience of the commissioners that many, if not most, of the property owners in the district are not interested in voting for the election of the commissioners.

The mail ballot proposal offered a practical solution to the problems of expense and limited interest faced by small public bodies such as drain districts, while assuring that interested citizens have the ability to participate in elections if they desire.

In order to make a levy of an assessment, the commissioners must have the list of property owners updated. By presenting this list to the election administrator, the mail ballot procedures can be followed by mailing a ballot to each of the land owners listed. After the election of the commissioners, the need for and amount of an assessment can be determined following the existing statutory procedures.

We believe that the mail ballot offers a simplified procedure for participation of interested citizens in matters such as drain district elections without undue administrative expense. For the reasons presented we urge favorable consideration of SB 169.

Laura A. Mitchell

LAURA A. MITCHELL
Secretary for
Arnold Drainage District
Birely Drainage District
Danford Drainage District
Shiloh Drainage District

League of Women Voters of Montana

House committee hearing 1985

SB 169 - An act to allow election administrators the option of conducting certai specific elections by mail ballot.

The League of Women Voters asks that this bill be amended.

The attached amendments address specifically the general comments that were made on this bill when it was heard in the Senate. The League believes that ballotting by mail might be very appropriate in certain circumstances and jurisdictions. We also believe that elections by mail should be adopted with great care and attention to detail.

The League's purpose in following election law bills is to assure fair elections that are accessible and understandable to the voters. Because elections take place in all 56 counties and hundreds of smaller political sub-divisions, the law must be absolutely clear as to its application. We believe SB 169 would be much stronger legislation if it were clarified and less ambitious in scope.

The attached amendments address the following major concerns:

1. The voter by mail is required to provide postage for the completed ballot. We oppose this "mini poll tax".

2. The bill proposes a hybred system of mailing one's ballot or depositing it in a designated place of deposit or taking it to the office of the election administrator or on election day going to possibly additionally designated locations of deposit. All this is confusing, expensive, and raises questions of ballot security. It would be difficult, if not impossible, to maintain a single register of those voting.

4. We would like to see candidate elections in third class cities omitted from this act until the system is perfect (It is interesting to note that elections by mail have proved effective in school elections in other states.)

Special districts covered by SB 169 range widely in size of area and budget. They are not necessarily rural in their constituencies (ie. the Missoula Fire District). In return for being organized as political sub-divisions, these government entities must maintain their responsibility and accountability to the electors in the district. The League suggests that the best and only proper reasons for supporting mail elections is that they offer the voter more convenience than presently exists, and that they often result in higher voter participation for certain types of elections. Cost-effectiveness should be a secondary consideration.

Testimony prepared by Margaret S. Davis, 816 Flowerree, Helena 59

SB 169 - Proposed amendments, League of Women Voters of Montana 3/3/85

1. page 1, line 18 after "therefor." STRIKE everything through page 2, line 5.

   Rationale: This is interpretive verbiage that is covered by the statement of intent and should not be part of statutory law.

2. Page,3, line 10.
   STRIKE: "at home"

   Rationale: Unenforceable and unnecessary language.

3. Page 3, line 23
   Insert: New sub-section (6) "The name of the elector shall be entered on the register of those offering to vote in this election."

   Rationale: one central registry is important to maintaining proper election controls and ballot security.

4. Page 3, line 23. Renumber (6) to (7)

5. Page 4, line 2. Renumber (7) to (8)

6. Page 4, line 2.
   STRIKE: "the close of the polls"
   Insert after "After" the following: "8 pm"

   Rationale: The polls, as such, won't be open during a mail ballot election.

7. Page 4, lines 15 through 18. STRIKE all of (b) and renumber this section accordingly.

   Rationale: Third class cities are jurisdictions with the potential for major city office campaigns. Until mail balloting is tried in smaller towns for candidate elections, it would be wise to omit third class cities. Campaigning for an election conducted by mail needs further consideration.

8. page 8, line 2.
   Insert after "concerned" the following: "no later than 70 days before election day"

   Rationale: This would clarify Section 9 so that a governing body would be assured of adequate time (15 days) to respond to the initiative of the election administrator.

9. Page 8, line 9.
   STRIKE: "The resolution must include a statement of the reasons for the objection."

   Rationale: Since the governing body pays for the election, it has no duty to provide this information to the election administrator.

10. Page 9, line 21.
    Insert after "a" the following: "postage paid"

    Rationale: Elections by mail are very cost-effective even when postage paid envelopes are provided the voters. In most other states this is a requirement. Participation drops when they are not supplied

11. Page 10, line 11.
Insert after "ballots" the following: "except replacement ballots"

Rationale: This would allow the election administrator to meet requests for replacement ballots after the inital mailing date if circumstances permitted.

12. Page 10, line 18.
STRIKE: "and until noon the day before the ballots are scheduled to be mailed"

Rationale: This would allow voting in person using replacement ballots at the election administrator's office. The person whose plans changed between the mailing of the ballots and the receipt of the ballots would not be able to vote absentee as this bill is presently written. On the other hand the person who lost their ballot is free to vote any time in person.

13. Page 12, line 7.
STRIKE: "Each spoiled ballot must be returned before a new one may be issued."

Ratioanle: While this is desirable, it is not readily enforceable. The same standard is not applied to destroyed or lost ballots.

14. Page 12, lines 9 through 12.
STRIKE sub-section (4) in its entirety and renumber accordingly.

Rationale: This sub-section conflicts with (2) and (3). It is not desirable for replacement ballots to be available at a location other than the election administrator's office.

15. Page 13, line 1.
STRIKE: "with sufficient postage affixed"

Rationale: With amendment 10, the duty of providing postage would be born by the governing body and not the voter.

16. Page 13, lines 2 through 4.
STRIKE subsection (b) in its entirety
Insert new Sub-section (b) as follows: "returning it in person to the office of the election administrator."

17. Page 13, lines 8 through 25
STRIKE New SECTION 19 in its entirity

Rationale: Places of deposit other then the election administrator's office or a US post office are not necessary with an election by mail. This section is confusing and potentially costly if places of deposit have to be staffed or serviced to maintain the integrity of the election process.

18. Page 14, line 4
STRIKE "If returned to the election administrator's office"

19. Page 14, line 13
Insert new sub-section (d) as follows: "record the name of the elector in the official register as having voted."

Rationale: One official register is essential.

20. Page 14, line 13 through page 15, line 5.
STRIKE sub-section (2) in its entirety and renumber accordingly all of new section 20.

Rationale: This eliminates "the election official on location" and conforms with amendment 17.

21. Page 17, line 3.
Insert after "person" the following: "or presenting a sworn affadavit"

Rationale: A personal appearance seems unnecessarily restrictive, when qualifications can also be attested to by other means.

Proposed amendments prepared by Margaret S. Davis
816 Flowerree, Helena, Montana 59601

RESPONSE TO TESTIMONY
OF THE LEAGUE OF WOMEN VOTERS
ON SENATE BILL 169

ITEM 1: CANDIDATE ELECTIONS

SB 169 PROVIDES: The only candidate elections which are even available for the mail ballot option are:

(a) trustees of special districts but not school districts;

(b) all candidates for municipal office in towns -- incorporated areas under 1,000 in population; and

(c) candidates for municipal office in 3rd Class cities (1,000 to 5,000) <u>if</u> the city elects officers on a non-partisan basis.

All other candidate elections of any type are specifically excluded.

LEAGUE RECOMMENDS: "... that mail balloting be instituted on a more modest level ..." "... that Sec. 4(b) and (c) on page 4 be struck. Because of the new campaign techniques required for running for a mail election, city and town office candidates should not be among those piloting this system."

RESPONSE: This is a policy choice for the legislature to make. Whether candidate elections should be among those allowed to use the mail ballot option -- and if they are, at what level -- is simply a judgment call.

SB 169 is a response to a two year study of recurring problems in the elections area. The cost and frequency of elections are very real problems for small towns. A quick conversation with officials in places like Judith Gap and Moore will verify that fact.

As any rural Montanan knows, politics in communities with only a few hundred people are quite different from politics in the communities where the League has its chapters.

The problems with elections in towns are real and ongoing. The mail ballot option is one possible solution. Disincorporation is another. Forcing them to live with the problem is the third. These are the choices available to the legislature.

The proponents have studied the matter and feel that the mail ballot option is appropriate for candidate elections in towns. We also feel, although less strongly, that the mail ballot option is appropriate for Montana's small cities. But if the legislature wants to exclude 3rd Class cities altogether, or even if it would prefer to expand the proposal to include even partisan elections in 3rd Class cities, the proponents would not object.

ITEM 2: POSTAGE

SB 169 PROVIDES: The cost of postage is divided. The government bears the cost of sending materials to the voter. The individual voter bears the cost of mailing the ballot back.

LEAGUE RECOMMENDS: "Any system of voting by mail must provide the voter with a postage paid return envelope."

RESPONSE: Just why is return postage a "must"? Under the current system, if an elector wishes to vote, he must get himself to the polls on election day at his own expense. The same would be possible under SB 169.

Anyone who wishes can still vote in the traditional way. The only difference is that they will have already received their ballot in the mail. The voter can avoid paying postage by simply hand delivering the ballot. That is no greater burden than driving to the polls on election day.

The opportunity to mail the ballot back is simply provided as a convenience to the voter. And a very inexpensive convenience at that.

The proponents believe that the vast majority of voters would feel that 22 cents is a small price to pay for that convenience. Those who disagree have the alternative of hand delivering their ballot. In giving the voters the vastly expanded convenience of voting by mail, 22 cents is a very small request to make in return.

ITEM 3: INCONSISTENT AND COMPLICATED SECTIONS

LEAGUE STATES: "The sections (15, 17, 22 and 25) dealing with absentee balloting, replacement ballots, signature verification, and notice to elector(s) are inconsistent and seem overly complicated."

RESPONSE: This comment is not sufficiently specific to allow a response. Its author has been out of town and unavailable for clarification. We have reviewed the sections and do not find how they are inconsistent.

ITEM 4: ABSENTEE VOTING

SB 169 PROVIDES: Anyone who will be away for the entire period that the election is being conducted, can, up until noon the day before the ballots are mailed, provide officials with the address he would like his ballot mailed to.

LEAGUE STATES: "The opportunity to cast an absentee ballot is very restricted, while replacement ballots would be quite easy to obtain."

RESPONSE: What absentee situation does the league see which is not covered satisfactorily? The situation in a mail ballot election is quite different.

Traditionally you need to provide for everyone who will be absent on election day. With mail ballots, however, you only need to provide for those who will be absent for the entire two to three week period that the election is being conducted. And they simply need to provide the alternative address where they would like their ballot sent.

Anyone who leaves town after ballots have been received can simply take their ballot with them and mail it from wherever they are. Anyone who returns home after ballots have been mailed will find their ballot waiting for them when they get home. Only those who are away the whole time need be provided for.

A mail ballot election is almost like everyone voting absentee. The proponents do not see how this is "very restricted."

ITEM 5: SECURITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: Places of deposit are designated by the election administrator. These are where people may hand deliver their ballots. They must be available throughout the voting period with more possible on election day itself. A transport box, secured as provided by law, is available at each and is where the on-location officials are to deposit the ballots.

LEAGUE STATES: "Section 19 regarding places of deposit for completed ballots does not meet standard criteria for a secure centralized depository."

RESPONSE: The proponents are unclear what is meant by "secure, centralized depository" and are unaware of any "standard criteria."

Our system is set up with a series of precincts where people go to cast their ballots. Places of deposit are like precinct polling places.

The only differences are: 1) not as many places of deposit are needed because so many of the voters will return their ballots by mail; 2) thus, there probably won't be one in each precinct; 3) people will most likely bring their ballots in already voted although its possible to vote it right there; 4) people will most likely bring in a ballot, althought if its been lost, etc., they can obtain a replacement; 5) for these reasons they're called "places of deposit" instead of "precinct polling places."

Many other functions are very similar. Under the current system, precinct polling places essentially are places where officials receive ballots from electors and handle them as provided by law. When that is complete, officials place the ballots in transport boxes, seal those boxes, and transport them to a central location. These aspects are retained for places of deposit in the mail ballot system.

ITEM 6: AVAILABILITY OF PLACES OF DEPOSIT

SB 169 PROVIDES: There will be places where people can return their ballots in person. And if they do, officials will do some of the processing while the elector is right there so that if any questions come up they can be resolved with the elector right then.

LEAGUE STATES: "Sections 19 and 20 taken together would undercut the strong points of having an election by mail!"

RESPONSE: We are not sure what the point is. It seems however that the League is suggesting that just having places where ballots can be returned in person undercuts the advantages of mail elections. We don't agree.

Please note that no one is required to deliver their ballot in person, but it is allowed. People are not prohibited from having someone else deliver their ballot for them. Section 18 is permissive, and sections 16 and 24 only require return (by any means) prior to the close of voting on election day. Section 20 only requires that if a ballot is returned in person, certain things must be done while the voter is right there.

It is not required that ballots be retained at the place of deposit until the close of voting. Transport boxes could be picked up and exchanged at anytime (as is currently allowed for polling places under 13-15-103). This would allow for the ongoing processing of ballots which is one of the "strong points" of mail elections. As long as all statutory procedures are followed (seals, records of seal numbers, certificates of transporters, etc.) there shouldn't be any problem.

ITEM 7: INITIATION OF MAIL BALLOT OPTION

SB 169 PROVIDES: Either the governing body or the election administrator can start the process, and either can stop it. The consent of both is required or the mail ballot option cannot be used.

LEAGUE STATES: "Since the political sub-division pays the cost of the election, the decision should rest with the governing body of the sub-division, if the election administrator agrees that such an election would be feasible. Giving broad discretion solely to the election administrator (page 7, lines 5-7) is not recommended by the League."

RESPONSE: A quick review of sections 7, 8, 9 and 10 should reveal that either can start it and either can stop it. Section 10 provides that if the governing body says no, then it can't be done by mail ballot. The language challenged by the League simply gives the same option to the election administrator. We do not agree that that is an overly broad grant of discretion.

Mail ballot elections are entirely new to Montana. The proponents feel strongly that, at least in the beginning, extra measures must be taken to guard against mistakes. We would not be comfortable having an irrigation district, for example, take on this new procedure on their own.

That is why the election administrator is injected in the process. That is also the reason for the written plan and its review by the Secretary of State. The jurisdiction is given a "final say" because it's their election. The election administrator is given a "final say" because it's a new process and she's the one with the knowledge and experience to ensure that is implemented properly.

Over time, once the jurisdictions are familiar with the process, it may be possible to reduce the election administrator's discretion in this area and transfer more to the governing body by itself. But we need to have some experience with this system first.

ITEM 8: STATEMENT OF PURPOSE

SB 169 PROVIDES: A statement of purpose containing various policy considerations.

LEAGUE RECOMMENDS: "Finally, we would ask that all the language in Section 1 following "therefor." on line 14, page 1, be stricken. These sentences are the expression of opinions that do not accurately reflect how Montanans view their democratic system of government."

RESPONSE: Statements of purpose are only useful as statutory expressions of legislative intent. They often aid in ensuring that any subsequent judicial interpretation of the legislation will be consistent with the reasons for the legislative action.

They are expressions of opinion. But once enacted, they are the expression of legislative opinion. The proponents disagree with the League's assessment that any consideration of cost-effectiveness is irrevalent when it comes to elections.

We disagree that "the best and only truly proper reasons for supporting" the mail ballot option are that "they offer the voter more convenience" and "often result in higher voter participation." We believe that if these things occur because of a method which is also cost-effective, then that is an equally valid and proper reason for supporting the mail ballot concept.

Montana Public Interest Research Group
729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 North Warren Helena, MT. 59601 (406)443-5155

TESTIMONY IN SUPPORT OF SB169

Mr Chairman and members of the committee, my name is Teri England. I am speaking today, on behalf of the Montana Public Interest Research group. MontPIRG is directed and funded by University of Montana students. We support SB169.

During the last campaign year, MontPIRG participated in the National Student Voter Registration Drive. We registered over 8400 voters during the effort. Along with registering voters, we try to educate people on effective citizen participation. As an organization, we strive to increase citizen participation in the voting process. SB169 provides an option to election administrators that has proven in other states to enhance voter turnout. Voter turnout in special elections and ballot issues is generally low. SB169 would serve to increase voter participation. Increasing citizen participation in all elections strenghtens our democracy. MontPIRG urges your support of SB169.

Thank you for your time and consideration.

VISITORS' REGISTER

House State Admin COMMITTEE

BILL NO. SB 169 DATE 13 Mar 85

SPONSOR Sen. Harding

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Margaret S. Davis	LWVMT 16 Normanee, Helena		AMEND X
Connie Pinsoneault	Mt. Assn. Clerks-Recorders Fort Benton	X	
Patti Small	Lewis & Clark County Comm.	X	
K.M. Kelly	Mt. Water Develop. ASSN. Mt. IRRIGATORS, INC.	X	
ALAN ROBERTSON	SEC. OF ST.	X	
Al Morris	MACo	X	
Jim Lovaas	Mont Pipe	X	
Robert Anderson	Comm Coal	X	
[illegible]	[illegible]	[illegible]	
Jim Barrett	Lewis & Clark Co. Clerk & Recorder	X	
Jean A. Johnson	Sec of State	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.